

Appellant submitted a three-page statement, received by OWCP on February 7, 2014, explaining why she delayed filing her claim for a right knee condition. She asserted that she was not familiar with the claims process and that the employment establishment failed to inform her about the process. Appellant stated that she did not initially file a claim because she had no reason to believe that such extensive damage was done to her right knee at the time she sustained the injury January 2002. She advised that through the years she was capable of doing her job despite increased swelling and pain; it was only recently that she realized she would require surgery to

repair damage to her right knee caused by her alleged 2002 work injury. Appellant noted that she had undergone knee surgery in July 2013 and had returned to full duty in December 2013.

Appellant also detailed the duties she continued to perform as a letter carrier. She asserted that the job requirements and associated duties of a city letter carrier were the primary cause of her many knee injuries. These included: (1) exiting the vehicle to the right, stepping down out of the vehicle and planting her right foot first, carrying a mail satchel which usually weighed approximately 35 pounds, frequently onto wet, icy, snowy, or leaf covered curbs, grass, or other uneven surfaces, which put the right knee in a position of twisting, pivoting, and generally stabilizing and absorbing the shock of load bearing; (2) climbing the steps to residential homes to reach the mailbox, carrying a mail satchel which usually weighed approximately 35 pounds, with those residential steps occasionally being wet, icy, uneven, loose, or lightly sprinkled with snow, which put her right knee in a load bearing position; (3) walking, squatting, stooping, and kneeling to retrieve mail from containers, picking up mail or parcels for delivery, delivering mail to low door slots, frequently while bearing weight, which caused strain and wear to her knee; and (4) loading and unloading of the vehicle with mail.

By letter dated February 25, 2014, OWCP advised appellant that she needed to submit additional factual and medical evidence in support of her claim. It stated that appellant had 30 days to submit the requested information.

By decision dated May 9, 2014, OWCP denied appellant's claim, finding that she failed to file a timely claim under section 8122. It noted that the date of injury was January 21, 2002 and that she filed her claim for compensation on January 14, 2014. OWCP further stated that there was no evidence that her immediate supervisor had no actual knowledge within 30 days of the date of injury.

Section 8122(a) of FECA states, "An original claim for compensation for disability or death must be filed within three years after the injury or death."<sup>1</sup> The Board has held that, if an employee continues to be exposed to injurious working conditions, the time limitation begins to run on the last date of this exposure.<sup>2</sup>

In the present case, appellant stated that she became aware of her right knee condition -- and its relationship to her federal employment on January 21, 2002. She, however, continued to work as letter carrier until the day she filed the claim. Appellant's supervisor verified on the reverse of the claim form that on January 14, 2014 appellant was still working as a letter carrier. As she continued to be exposed to the alleged conditions of employment until the date the claim was filed, this claim was timely filed.

In her February 7, 2014 statement, appellant set forth in detail the specific occupational factors to which she attributes her condition, thereby raising the issue of whether she has established a *prima facie* case of fact of injury. In light of the fact that OWCP has not

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<sup>1</sup> *Id.* at § 8122(a).

<sup>2</sup> *J.P.*, 59 ECAB 178 (2007); *Linda J. Reeves*, 48 ECAB 373 (1997).

considered this issue, it must be considered on remand. After OWCP has developed the case record to the extent it deems necessary, a *de novo* decision shall be issued.

### **CONCLUSION**

The Board finds that appellant's occupational disease claim was timely filed within the applicable time limitation provisions of FECA. The Board finds that the case is not in posture for decision with regard to the issue of whether she sustained a right knee injury in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the May 9, 2014 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this decision.<sup>3</sup>

Issued: August 13, 2015  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>3</sup> Michael E. Groom, Alternate Judge, participated in the preparation of this order but was no longer a member of the Board effective December 27, 2014.